

**MEMORANDUM OF AGREEMENT  
BETWEEN KING COUNTY AND THE CITY OF KENMORE  
REGARDING MITIGATION FOR THE BRIGHTWATER PROJECT**

WHEREAS, in November 2003, King County issued its Final Environmental Impact Statement (FEIS) regarding the Brightwater Regional Wastewater Treatment System ("Brightwater Project"); and

WHEREAS, in December 2003 the King County Executive selected the Route 9 – 195<sup>th</sup> Street System as the final alternative; and

WHEREAS, the selected system includes the construction of a new regional treatment plant, deep tunnel conveyance facilities, a marine outfall and four (4) primary portal sites, including a portal site in the City of Kenmore at the southeast corner of the intersection of NE 195<sup>th</sup> Street and 80<sup>th</sup> Avenue NE; and

WHEREAS, the FEIS itself calls for future discussions on mitigation of impacts as the project becomes better defined through the pre-design, design and permit application processes and that this continuing process has lead to the preparation and issuance of four (4) Addenda to the FEIS which spell out in greater detail possible mitigation measures; and

WHEREAS King County and the City of Kenmore signed the Memorandum of Agreement By And Between the City of Kenmore and King County, Dated June 12, 2000, that addressed mitigation and sewer system protection within the City of Kenmore and that a portion of the funding provided to the City of Kenmore under the terms of that agreement was to address partial compensation for mitigation of impacts associated with the North Lake Interceptor if it were constructed; and

WHEREAS the development of the Brightwater Treatment System and it's associated storage capabilities will negate the need to construct the North Lake Interceptor and provide sewer system overflow protection to the City of Kenmore; and

WHEREAS the City of Kenmore and King County desire to look ahead to the specific issues which will be raised during the design and permit application processes and to enter into an agreement which will guide the parties at that more detailed stage of the Brightwater Project in formulating final mitigation measures for impacts to the City of Kenmore; and

WHEREAS this Memorandum of Agreement sets forth areas of interest to the parties and identifies measures King County is willing to take to provide the City of Kenmore with additional information and mitigation and identifies the overall goals of King County and the City of Kenmore in each area.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. Based on the parties' long and productive working relationship and this agreement the City of Kenmore agrees to work with King County to review all permit submittals in a timely fashion and to address with King County, quickly and effectively, any problems that arise during the permitting or construction processes. Both parties agree to diligently perform the work under this agreement to completion and in accordance with any schedules specified herein or required by law. Time is of the essence in the performance of this agreement.

**2. Traffic Impacts and Mitigation**

King County commits to using the transportation model that has been identified by the City of Kenmore for the analysis of project construction and operational traffic impacts for all Brightwater project elements that are planned within the City of Kenmore.

Currently, the facilities planned within the City of Kenmore include one portal at the Portal 44 site, associated tunnels, the facilities required for their connection to the Swamp Creek trunk line and required permanent facilities at Portal 44 (the North Kenmore Portal site) at the southeast corner of the intersection of NE 195<sup>th</sup> Street and 80<sup>th</sup> Avenue NE.

To address traffic impacts, King County commits to working with the City of Kenmore as part of the ongoing pre-design and permit application process to determine any significant traffic impacts to the City of Kenmore caused by Brightwater construction and/or operational activities and those of significance caused by concurrent traffic improvement projects affecting the City of Kenmore. Information contained in the Brightwater FEIS will be refined as additional analysis is completed.

Traffic mitigation will be determined during the permitting and approval process with the City of Kenmore prior to any construction activities within the City of Kenmore related to the Brightwater project. Mitigation will address the significant Brightwater traffic impacts, including the taking into account of concurrent projects of significance. King County will not be responsible for mitigating traffic impacts caused by other projects.

All proposed truck haul routes required within the City of Kenmore for activities at the Portal 44 site or on the Swamp Creek Connector will be submitted to the City for review and approval by King County's selected contractors before the any hauling activities begin. It has been determined that haul routes going north on 80<sup>th</sup> Avenue N.E. will be utilized for both the North Kenmore Portal project, associated tunnels that will be constructed from this location and the Swamp Creek Connector project. Haul times for work related to Portal 44 and the Swamp Creek Connector in the City of Kenmore will be allowed Monday through Friday between the hours of 8:30 am and 5 pm and from 6:30 pm to 9 pm. Saturday hauling will be allowed from 9:00 am to 8 pm. No hauling will be allowed on Sundays.

King County also commits to study and record conditions (pre-construction) at each affected intersection taking into account the pavement condition plan provided by the City of Kenmore and creating video records of pre- and post-construction conditions as appropriate. Road surface improvements post construction will be determined by the City of Kenmore using these records and taking into account wear and tear that would have occurred under normal use conditions. All roadway pavement surfaces disturbed by cut and cover construction related to the Swamp Creek Connector project would be repaired or replaced as appropriately by King County subject to City of Kenmore approval.

Providing that the City of Kenmore completes its review and approval of all permits associated with the Brightwater facilities in the City of Kenmore and the appeal periods for those permits and approvals have expired or have been successfully completed, then King County agrees to provide \$500,000 dollars for traffic mitigation related to the Brightwater project, including all of the construction activities described in this Agreement. In addition, the City of Kenmore agrees that the funds that the City of Kenmore has received from King County in an earlier agreement and has reserved for traffic mitigation related to the development of the North Lake Interceptor (which will no longer be needed as a result of the proposed Brightwater facilities) will be applied by the City to traffic mitigation for the Brightwater Project. Together these moneys will constitute full and complete funding for all traffic mitigation pre- and post-construction required within the City of Kenmore for the Brightwater Project and all of the construction activities described in this Agreement (with the exception of roadway surface repairs required as a direct result of cut and cover construction which will be paid for by King County).

### **3. Odor Control**

Odor control is of paramount concern to King County and the City. To address this concern, King County has voluntarily committed itself to an odor control standard of “no detectable odor at the property line” for all elements of the Brightwater System, which includes the Portal 44 site and the Swamp Creek Connector. This standard will be met at the site property lines, 24 hours a day, 365 days a year. King County will be responsible for odor control detection and testing and will promptly investigate and remedy City or public complaints of odor.

### **4. Overflow Protections**

King County has multiple strategies available to reduce the probability of a discharge from manholes or overflow structures within the City of Kenmore to less than a once in 100 year occurrence. The strategies include:

- **Inflow and Infiltration:** King County places a high priority on integrating inflow and infiltration (I/I) control with building conveyance projects system-

wide. The purpose of King County's Regional Inflow and Infiltration Program is to assess and implement the most cost effective measures for preventing sanitary sewer overflows and maintaining system capacity for wastewater transport and treatment. I/I control will be implemented in the County - owned and local agency systems where and when it is cost effective compared to the cost of constructing and operating new facilities to meet the overall goal of no sanitary sewer overflows. Any future I/I projects in or upstream of the City of Kenmore will be coordinated with the local sewer service provider.

In 2005 King County is working cooperatively with local agency representatives, including the Northshore Utility District, to prepare the Executive's I/I Control Plan. This plan, which will be submitted to the King County Council by December 31, 2005, will include proposed cost-effective I/I reduction projects, selected funding options, construction standards, and overall program and policy goals. The Regional Water Quality Committee and the King County Council will review and approve the Regional I/I Control Plan in 2006.

- **Wastewater Storage:** King County currently has 10 million gallons (MG) of wastewater storage located in the North Lake Washington area: the 4 MG Logbook Storage Facility in Tracy Owens Park and 6 MG North Creek Storage Facility in the Bothell Business Park. The construction of the Brightwater System will increase the volume of storage available in the area. The influent tunnel will have 4.4 MG of available storage while the Bothell-Woodinville/Kenmore Interceptors will provide another 2 MG. As a result of the construction of the Brightwater System, the 16.4 MG of storage will be available to attenuate peak flows (provide wastewater overflow protection), negate the need to construct the North Lake Interceptor and limit the potential for a wastewater discharge.
- **Flow Diversions:** The Brightwater System will maintain the ability to transfer the flows generated in the new Brightwater Service Area to either of King County's other two treatment plants, the West Point Treatment Plant in Seattle and the South Treatment Plant in Renton. Flow transfers to the West Point Treatment Plant could be routed by gravity through the existing Swamp Creek Trunk and Kenmore Interceptor Section 2 ("Kenmore Lakeline"). Flows could be transferred to the South Treatment Plant by redirecting the North Creek and York Pump Stations. The North Creek Pump Station could pump flows to the York Pump Station, which in turn could send the flows to the Eastside Interceptor. Flow diversions would be used as needed to reduce the flow into the influent tunnel and to the treatment plant.
- **Increased Pump Station Reliability:** The new Influent Pump Station (IPS) currently planned for the Bothell Business Park at Portal 41, will pump the flows in the influent tunnel to the treatment plant and is being designed to a new higher standard of reliability than other County pump stations, which will be upgraded as future improvements are needed. Attachment 1 includes a short list of critical IPS design elements and the level to which this Brightwater facility is to be

constructed. Increasing the reliability of the IPS will correspondingly decrease the risk of the IPS failing during storms.

- **Bypass to Puget Sound:** In the event that the treatment plant is partially or completely shut down, the other backup systems have been used (flow storage, flow diversions), and peak flows are still entering the influent tunnel, some of the treatment plant processes would be bypassed and all of the partially-treated wastewater would be discharged to the effluent tunnel. The goal of this action is, in an emergency, to discharge partially treated wastewater to a large volume of highly mixed marine water (Puget Sound) rather than to discharge untreated wastewater to a smaller urban freshwater body (Sammamish River).

With these five major strategies, the Brightwater System will be a highly reliable system that would be able to adequately handle flows up to the 100-year recurrence interval and limit the frequency of an overflow discharge within the City of Kenmore to less than 1-in-100 years.

## **5. Emergency Response to an Overflow**

### **Notification and Cleanup Plan**

The City will be an official Wastewater Treatment Division (WTD) overflow manual document holder thereby receiving all notification and contact updates as necessary. This plan outlines the procedures and techniques that will be employed by the County to quickly and effectively address a discharge from a sanitary sewer manhole or overflow structure within the City of Kenmore. The City shall have the opportunity to review the WTD overflow manual and to provide the County with any suggested language that could improve the procedures and techniques employed in the City of Kenmore when the County is responding to a discharge from a sanitary sewer manhole or overflow structure within the City. The City of Kenmore is not responsible for responding to any discharge from a King County owned sanitary sewer manhole or overflow structure within the City. If a discharge were to occur to a residential, commercial or industrial structure or from a manhole or overflow structure as a result of a backup within the King County Regional Wastewater Treatment System, then in addition to fully implementing the clean-up plan described above King County would respond to all claims for damages to real and personal property and/or the affected environment caused by this backup, including but not limited to claims related to the absence of a safety relief point in accordance with its established claims procedures.

## **6. Continued Analysis to Provide Protection from Overflow Conditions**

To address the concerns of the City of Kenmore regarding continued protection from overflows of the Brightwater System within the City of Kenmore, King County agrees to study with each issuance of new census data (on a 10 year reoccurring basis) the need for a connecting conveyance pipeline between the existing Kenmore Pump Station and Portal

44 (the North Kenmore Portal) for additional conveyance and storage of wastewater flows. If this conveyance and/or a related pump station is required at any time in the future King County will work with the City of Kenmore to develop and include them in a site selection process. The central business core of the City will be avoided if possible. If a safety relief point is deemed necessary at that time the County, in consultation with the City of Kenmore will identify a complete array of alternate locations for the construction of that facility. One such alternative that will be explored is a safety relief point that would outlet directly into Lake Washington. A discharge dispersion study would be completed to assist in selecting a preferred alternative and establishing an appropriate depth for the discharge to protect public health and safety. The City of Kenmore would be provided a report detailing the analysis of all alternatives and be asked to provide input to the County prior to any siting decision.

The need for any collection system improvements over and above those currently designed for the Brightwater system would be determined by hydraulic modeling of the conveyance system using the latest flow projection and census data. Attachment 3 describes generally the methodology used by WTD to project wastewater flows and to assess needed system improvements. Probability modeling will be updated on the same 10 year recurring basis to demonstrate the level of protection from overflow conditions. King County would seek the appropriation, authorization and approvals required in order to construct the improvements to the system necessary.

## **7. Portal 44 (North Kenmore Portal) Construction Activities**

Portal 44 will be used as a working portal for construction of the Brightwater conveyance system between North Kenmore and North Creek and North Kenmore and Ballinger Way. As a working portal, it will be used to launch tunnel-boring machines (TBM's) and be a staging area for any secondary tunnel lining that will be required. The estimated total construction duration of use at this portal site is expected to be approximately 4 years. A permanent structure of 4,500 square feet or less will be constructed at this site to house odor control equipment and a possible future reclaimed water facility. The total site size is approximately 27 acres with only a small portion of that required for the permanent structure on the north end of the property.

Tunneling activities are anticipated to be carried out on a 24-hour per day basis, for a maximum of 7 days per week (normally a 6 day per week schedule will be maintained) and above ground daytime construction work will take place between 6 am and 10pm. Depending on the construction schedule there may be up to two TBM's operating concurrently out of the Portal 44 site. Each TBM drive will require approximately three crew shifts totaling 50 persons, with a site management team total of 10 persons. The total number of personnel, with two TBM's operating during three shifts, could range between 100 and 120 (maximum of 40 persons per shift). Sunday will be set aside for maintenance work related to the tunneling processes. Underground activities could include rail track repairs, extension of services (pipes, cables), cutterhead inspection/cutter changes, drive motor inspection/exchange as well as a number of diverse maintenance related activities. All Sunday maintenance work will require support from the surface in terms of supply of materials,

access in and out and ventilation/services. Related surface maintenance activities would include maintenance of the slurry separation plant (required to take place when the TBM is not in production). In rare circumstances, it may be necessary to perform mining on Sundays. For instance, if the TBM is in adverse ground conditions, it may be necessary to advance the TBM to more favorable ground conditions if there is a safety risk or the ground is not suitable for performing TBM maintenance. The maximum number of hourly truck-trips, when two TBM's are operating, could be 9 trucks. These numbers are 'peak' numbers and will not be maintained for the full construction duration. The number of personnel during tunnel lining operations will be similar to those for tunnel excavation, but the volume of traffic will be approximately 2/3 of the excavation volume.

## **8. Swamp Creek Connector Construction Activities**

The Swamp Creek Trunk currently flows into the Bothell-Woodinville Interceptor and to the Kenmore Pump Station. The Swamp Creek Trunk alignment is close to the Portal 44 site; therefore, the Swamp Creek flows from north of 192nd Street will be diverted to Portal 44 directly via the new Swamp Creek Connector. A new diversion manhole will divert flows from the existing Swamp Creek Trunk in the vicinity of NE 192nd Street and 73rd Avenue NE. A new 48-inch minimum diameter pipeline will be constructed along NE 192<sup>nd</sup> Street between 73rd Avenue NE and the Portal 44 site. An underground manhole will be built in the NE 192<sup>nd</sup> Street right-of-way just east of 73<sup>rd</sup> Avenue NE to house flow measurement equipment. The flow measurement manhole will be approximately 8 feet in diameter.

### **Construction Activities**

Construction will utilize a combination of open trench (cut and cover) construction and micro-tunneling. Geotechnical borings which will be used to establish construction methods have not been completed for the Swamp Creek Connector. Open trench (cut and cover) construction will require that either one or both lanes of NE 192<sup>nd</sup> Street be closed during construction. King County will work with the City of Kenmore to limit closures to partial closures of NE 192<sup>nd</sup> Street and 73<sup>rd</sup> Avenue NE. In areas where the pipe is tunneled, disturbances will be limited to each end of the tunnel where a jacking pit and receiving pit is required. If the geotechnical investigation recommends replacement of existing trench spoil with imported backfill, soil transport will be the primary source of truck traffic generated by the project. This could result in 400 to 700 total truck trips resulting in an approximate peak of 25 trucks a day (when open trench (cut and cover) construction is occurring) during this limited construction period.

The area along NE 192<sup>nd</sup> Street has a high ground water elevation. In the areas of open cut construction the trenches need to be dry. This can be achieved by generally using one of three methods: (1) sheet piles can be driven on either side of the trench to a depth that allows the sheet piles to act as cut-off walls, (2) infrequent deep dewatering wells or (3) frequent shallow dewatering well points. All dewatering water will be discharged as allowed by local, state and federal permits.

### **Construction Schedule**

The construction schedule of the Swamp Creek Connector has not been determined but will probably occur between the second half of 2006 and winter of 2009. The total construction period between mobilization and final restoration could last one year. This construction activity will be coordinated with other City of Kenmore projects. Every effort will be made to avoid construction of the Swamp Creek Connector during the 522 bridge construction project.

## **9. Estimated Permitting Process and Timing**

King County has agreed to voluntarily submit for type 2 Commercial Site Development Permit processes for the Brightwater facilities at Portal 44 in the City of Kenmore. This review ensures compliance with bulk standards and regulations required by zoning (setbacks, height, critical area, etc.) and written public comments are accepted for consideration during the review process. The type 1 permits that are required are listed below and are typical permit type reviews (building permits).

King County and the City of Kenmore agree that the type 2 Commercial Site Development Permit process time will not exceed four months.

The following permit submittal and issue dates that are listed as future dates below are estimated and are based on our current best available information.

### **North Kenmore Portal**

<b>Permit Type</b>	<b>Submit Date</b>	<b>Issue Date</b>
Commercial Site Development Permit / PAUE (type 2)	4/13/05	11/30/05
Zoning Variance – Noise (type 2)	4/13/05	11/30/05
Demolition Permit (type 1)	9/05	11/05
Building Permit (type 1)	10/05	12/05
Grading Permit (type 1)	9/05	11/05
Certificate of Sewer/Water Availability		7/20/04 issued
Right of Way Permit (type 1)	9/05	11/05

### **Swamp Creek Connector**

<b>Permit Type</b>	<b>Submit Date</b>	<b>Issue Date</b>
Grading Permit (type 1)	9/05	11/05
Right of Way Permit (type 1)	9/05	11/05

## **10. Guidelines for Addressing Construction Impacts at Portal 44 and the Swamp Creek Connector**

King County will meet all current City of Kenmore code regulations to address the potential construction impacts of traffic, dust, lighting, vibration and wetland protection associated with Brightwater activities at the Portal 44 site and the Swamp Creek



Connector within the City of Kenmore. A variance to the noise ordinance will be requested from the City for extended work hours at the Portal 44 site during construction. Tunneling construction activities are anticipated to be carried out on a 24-hour per day basis, for a maximum of 7 days per week (normally a 6 day per week schedule will be maintained) and above grade daytime work hours will be 6 am – 10 pm. Above grade nighttime activities would be limited and soils would be stockpiled on site during nighttime hours. All reasonable efforts would be made to limit and reduce noise during the extended hours of construction using acoustic design and careful work practices.

Understanding that noise related to construction and/or operation at the Portal 44 site of the proposed Brightwater facilities is of paramount concern to the City of Kenmore, King County has hired an acoustic design expert to assess probable significant adverse impacts and develop design alternatives to address these probable impacts and will meet the City of Kenmore's noise codes during normal working hours of construction (with the exception of one residential unit that King County will work directly with to address this probable impact) and during operation of the proposed facilities and much reduce levels of noise during extended hours of construction. An example of the possible acoustic design solution that may be applied at the Portal 44 site would be the addition of a 20 ft. sound wall surrounding the proposed work area to limit impacts to the adjacent community. For Portal 44 (North Kenmore) King County will develop a Noise Study that will include a proposed Construction Noise Mitigation Plan, a General Construction Noise Mitigation Plan, and a Community Relations and Noise Management Procedures Plan. The final configuration, scope, and details of the plan will be determined by the City of Kenmore.

## **11. Design of Above Grade Structures**

Portal 44 will have the only above-grade permanent Brightwater structures to be located within the City of Kenmore. The structures will include an odor control structure and may also include a small re-claimed water distribution facility in the northern portion of the Portal 44 site. King County's intent is to create structures that will be well-built structures that will serve their functional purposes and be an amenity to the community in which they are sited. King County commits to working with the City of Kenmore and its citizens to develop the design of these structures through the City's permitting process and a public process.

King County agrees to include as part of its public process (two mitigation/design review meetings), facilitated discussions regarding the future use of that portion of the Portal 44 site that will not be required for Brightwater related structures. At the end of the public process, King County will provide the City of Kenmore with written meeting summaries, including a conceptual diagram of potential future uses and their possible distribution on the Portal 44 site as indicated by the community attending these public meetings.

## **12. Operations at Portal 44**

Portal 44 and facilities once constructed and in operation will meet or exceed Kenmore's current code requirements for noise. In addition odor control equipment will be operated and maintained in a manner that ensures no odors are generated from this site. Maintenance staff will visit the facility on a regular basis to perform required maintenance and inspect the performance of any mechanical equipment.

**13. Guidelines for Addressing Emergency Management Planning and Emergency Response**

King County recognizes the importance of emergency management planning and response and pledges to work with the City of Kenmore and the Northshore Fire District (taking into account any current inter-local agreements) regarding emergency management planning, emergency response and related facility design and construction issues to accommodate the construction and operation of the Brightwater Project at Portal 44 and the Swamp Creek Connector. Input will be gained by working directly with each of the parties mentioned above during the design and permitting and construction phases of the Brightwater project, which are now underway.

King County will work with all emergency first responders that would be required to provide service along the Brightwater System, including the City of Kenmore, to address adequate response times, availability of required equipment, personnel and training of emergency response staff. King County will assure each jurisdiction that the needs of the Brightwater project can be provided for during construction and operations and that citizens will continue to have timely response from local emergency service providers. If any deficiencies are determined King County will provide necessary and appropriate funding to address the deficiencies.

**14. Mitigation for Construction and Operation of Portal 44 and the Swamp Creek Connector**

The City of Kenmore has received mitigation moneys from King County in an earlier agreement to fund the mitigation required to address the construction and operational impacts related to the North Lake Interceptor, if it were constructed (the "Reserved Funding"). With the development of the Brightwater System and specifically, Portal 44 and its related tunnels with their storage capacity, the wastewater overflow problems that the North Lake Interceptor was meant to address will be appropriately provided for and its construction will no longer be required. Upon the City of Kenmore's approval of all permits associated with the Brightwater System, and the expiration or successful completion of any appeals of those permits or approvals, the City of Kenmore will be free to use the Reserved Funding and such Reserved Funding shall provide the full and complete mitigation (along with the additional specific mitigations outlined in this agreement) for all direct and indirect impacts and community mitigation caused by the

construction and operational uses planned at, and associated with all elements of the Brightwater Treatment System within the City of Kenmore.

King County is currently negotiating with the property owner for the acquisition of property needed for the construction and operation of Portal 44. Property that is not required by King County for the maintenance and operation of the permanent odor control structure, other on-site structures or facilities and any permanent access point to the conveyance tunnel itself shall be referred to herein as “Surplus Property.” Assuming that the City of Kenmore completes its review and approval of all permits required for Brightwater facilities in the City of Kenmore and the appeal period for those approvals have expired or have been successfully completed, then after Final Construction King County will transfer such Surplus Property to the City of Kenmore subject to all of the following:

1. Any property designated for project mitigation, wetland areas and wetland buffers will remain as King County property or will be transferred subject to a permanent conservation easement retained by King County with King County retaining its right to wetland credits and wetland banking, if any, for preservation of such wetland areas. Public access to and public education about such property shall be allowed to the extent authorized and permitted by state and federal regulatory agencies.
2. The City of Kenmore would be responsible for dividing the property into two or more legal lots, the number and configuration of which shall be mutually acceptable, at no additional cost to King County.
3. The City of Kenmore shall agree that such transfer along with the additional specific mitigations outlined in this agreement constitutes full and complete mitigation for all direct and indirect impacts and community mitigation caused by the construction and operational uses planned at, and associated with, Portal 44 and the Swamp Creek Connector by King County for the Brightwater Treatment System.

In the event that additional cost-effective mitigations are identified during permitting or construction of the Brightwater facilities at Portal 44 or the Swamp Creek Connector, King County agrees to consider and negotiate funding these additional mitigations provided that both parties agree that each of the following conditions are met: (1) the additional mitigation(s) would be a positive contribution to the City of Kenmore; (2) the additional mitigation(s) would not violate a term or condition of any of the Project’s federal, state or local permits or approvals and (3) the additional mitigation(s) would result in a cost savings in construction costs for King County.

4. The City of Kenmore will use the Surplus Property for appropriate city use or uses that are compatible with King County’s use of the retained portion of the property.

5. This transfer of Surplus Property shall be approved in advance by the King County Council.

Within 120 days from execution by both parties of this agreement, the King County Executive shall transmit this Memorandum of Agreement (“MOA”) to the King County Council for approval of the transfer of property as described in this agreement. Any property conveyed to the City will be as is, in an environmental condition as good as its condition on the closing date of King County’s purchase of the subject property from the property owner.

#### **15. Reclaimed Water Availability**

As a result of the construction of the Brightwater system, reclaimed water for irrigation or industrial uses is intended to be available from each of the portal locations, including Portal 44 within the City of Kenmore. As part of King County’s Reclaimed Water Program, King County intends to work with the City of Kenmore and other local governments and utilities to pursue opportunities for the use of reclaimed water from Brightwater and other wastewater facilities. The County also commits to sharing with the City, technical and feasibility research information that the County develops in its efforts to advance reclaimed water uses within the Brightwater Service Area.

At the moment, the potential class A reclaimed water planned to be available from Brightwater through gravity flow. The water would have very high reliability, and is expected to be available by 2011 after the completion of all required environmental analysis, appropriate engineering design and needed construction.

The County will shortly be initiating a regional water supply planning process for King County that will integrate the use of reclaimed water into a comprehensive water supply plan for the County, consistent with the requirement for such a plan in state law. The regional plan will include an evaluation of the feasibility of different approaches to delivering reclaimed water where appropriate, including policy and funding issues. The City will be invited to participate in the planning process, and will be kept informed as policy discussions continue on regional water resources, long term water supply capacity, and the use of reclaimed water to the maximum extent feasible and appropriate.

Within, and as a part of, that planning process, King County commits to working with the City to develop a memorandum of understanding related to strategies for increasing the use of reclaimed water. To the extent consistent with the reclaimed water component of the countywide plan, the County commits to negotiating with the City of Kenmore as to terms, conditions and pricing of reclaimed water, taking into account, among other things, the City’s developing program to utilize reclaimed water for appropriate uses in order to decrease the demand on potable water resources and stream flows. The parties agree that this conservation effort is a general benefit to all citizens.

**16. Public Involvement Commitments**

King County has demonstrated its commitment to involving the public in wastewater projects during the Brightwater Siting Project and many other projects. King County seeks to offer people many ways to get involved to match their level of interest. Community relations will be key to Brightwater permitting and construction within the City of Kenmore. King County commits to continuing its ongoing work with the City of Kenmore and its staff, as well as, adjacent residences and businesses that in close proximity to the Portal 44 site. King County will time events and publications around project milestones, rather than specific timeframes. See Appendix A for details of the planned public involvement process.

**17. Guidelines for Staff Review Funding**

King County commits to reimburse the City of Kenmore for its staff or consultant time (in lieu of staff time) for Brightwater related project review for non-permit related work or for acceleration of mutually agreed to permit related work to a maximum of \$25,000. The City will be reimbursed according to a mutually agreed-to scope of work with associated hourly rates. Staff time required for standard permit review will be funded by permit review fees paid to the City of Kenmore. Legal fees incurred by the City of Kenmore will not be reimbursable by King County.

**18. Guidelines for Dispute Resolution**

The parties shall use reasonable efforts to mediate any dispute arising under this Memorandum of Agreement. In the event of such a dispute, each party shall designate, in writing, not more than 3 candidates it proposes to act as a non-binding mediator within ten (10) days following notification of a dispute. If the Parties cannot agree on one of the mediators from the combined list within five (5) days, then the Parties shall promptly meet and select a mediator by blind draw. Upon selection of the mediator, the Parties shall within thirty (30) days or as soon thereafter as possible, meet and engage in a mediation of the dispute with the assistance of the mediator. The cost for the mediation services shall be borne equally between the parties, each party paying one-half of the cost. The mediator shall determine reasonable procedures. Testimony and briefing, if any, provided to the mediator shall be inadmissible in any subsequent court proceedings. If mediation fails to resolve the dispute, the Parties may thereafter seek redress in court. Venue and jurisdiction shall lie with the King County Superior Court in Seattle, Washington.

**19. Regulatory Authority Preserved**

Nothing herein shall be construed as a waiver, abridgment or other limitation of the City of Kenmore's or King County's regulatory authority under state law, including the status of Brightwater facilities as essential public facilities under chapter 36.70A RCW, which the City and King County hereby reserve in full.

**20. Mutual Indemnification**

Each party to this Agreement shall be solely responsible for its own negligent and/or wrongful acts or omissions, and those of its own agents, employees, representatives or subcontractors, to the fullest extent allowed by the laws of the State of Washington. Each party agrees to protect, indemnify and save the other Party harmless from and against any and all such liability for injury or damage to the other party or the other Party's property and also from and against all claims, demand and causes of action of every kind and character arising directly or indirectly, or in any way incident to, in connection with or arising out of work performed under the terms hereof, caused by its own fault or that of its agents, employees, representatives or subcontractors. Each party specifically promises to indemnify the other party against claims or suits brought under Title 51 RCW by its own employees, contractors or subcontractors, and waives any immunity that it may have under that title with respect to, but only to, the limited extent necessary to indemnify the other party. Each party shall also indemnify and hold the other party harmless from any wage, overtime or benefit claim of its own employee, agent, representative, contractor or subcontractor performing services under this Agreement. Each party further agrees to fully indemnify the other party from and against any and all costs of defending any such claim or demand.

**21. Termination**

Unless terminated earlier through the mutual, written consent of the parties, this Memorandum of Agreement shall terminate upon completion of the tasks described herein. Notwithstanding the termination of this MOA, the provisions of paragraphs 18 and 20 shall survive such termination.

**22. Modification of MOA**

This Memorandum of Agreement may only be modified by an amendment in writing signed by each party. If both parties do not agree to an amendment of the MOA then the parties may mediate concerning the amendment only if both parties agree to so mediate.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Agreement on the date set forth below.

KING COUNTY

By: [Signature]

Dated: 10/3/05

Title: Assistant Division Director

Approved as to form: [Signature] (Contributed on Council approval)  
Prosecuting Attorney

CITY OF KENMORE

By: [Signature]

Dated: 9/26/05

Title: City Manager

Approved as to form: [Signature]  
City Attorney

## **Appendix A**

### **Public Involvement Commitments**

#### **Permitting/Mitigation process (2004 - 2005)**

##### Public meetings:

- |   |                 |               |
|---|-----------------|---------------|
| • Safety Relief Point Shorelines Permit   | July 29, 2004   | Completed     |
| • Permits/Mitigation                      | September, 2004 | Completed     |
| • Mitigation / Design Review (2 meetings) | June 21, 2005   | One Completed |

##### Publications:

- Project newsletter (approximately quarterly)
- Media Relations – local and regional media

#### **Construction process (2005-2010)**

##### Community Relations Planning:

- Community Relations plan developed around site-specific issues and revised as needed throughout the construction process.

##### Public Interactions:

- Community kick-off meeting.
- Community meetings at key milestones.
- 24-hour hotline beeper
- Visits with individuals and groups of neighbors to resolve issues and conflicts as they arise.
- Established team protocols for responding to community concerns.
- King County will share issues and their resolutions relating to the City of Kenmore with City staff.

##### Publications

- On-Site Signage listing project contact information
- Project newsletter (approximately quarterly)
- Media Relations – local and regional media
- Construction update flyers notifying neighbors of key progress points and changes
- Construction updates posted on County's web site and available to City of Kenmore to post.
- Information about County claims process provided as needed

King County commits to consulting with and involving, as appropriate, the City of Kenmore staff in the planning and implementation of public involvement activities that will occur related to the proposed Brightwater construction activities at or near Portal 44 and the Swamp Creek Connector.

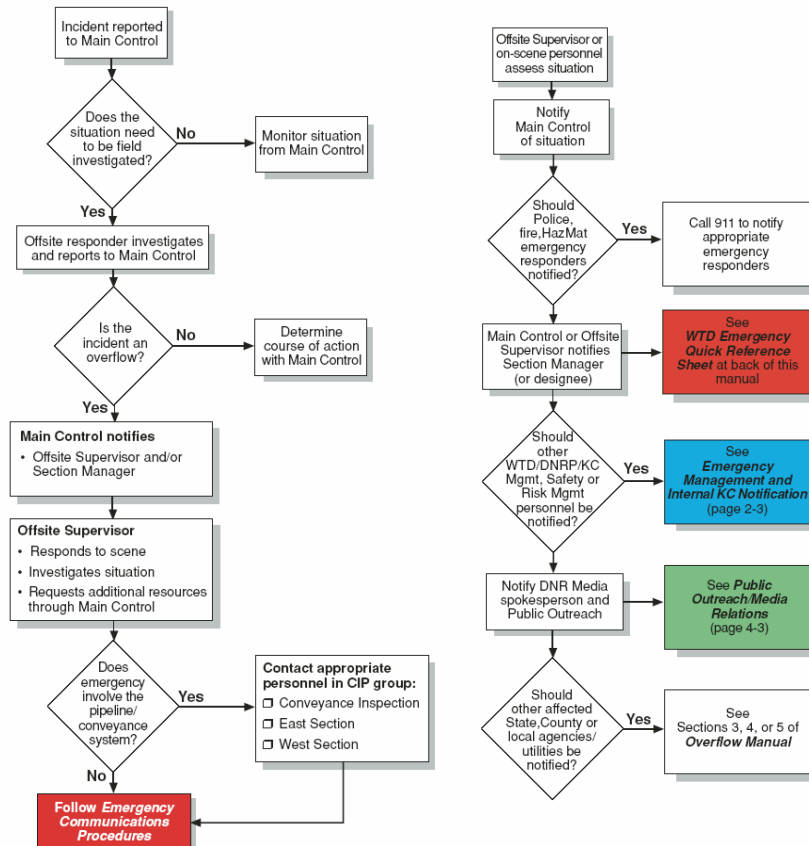


# Attachment 1 Influent Pump Station Design Elements

<b>DESIGN ELEMENT</b>	<b>WA STATE DOE ORANGE BOOK REQUIREMENTS</b>	<b>King County Standard</b>	<b>KC WTD BW IPS DESIGN ELEMENTS</b>
<b>Power</b>	redundant power required	redundant power required	Single tap to an 115kV power line that is fed on one side from the Vitulli Substation and the other side from the Moorlands Substation.
<b>Emergency Power</b>	Designed with capability for emergency power in case the primary electrical feed is out of service. For standby generators, provide enough onsite fuel storage for 12 - 24 hours of operations.	Total station operation and pumping peak flow	Standby generators sized to operate all station pumps and electrical elements Phase 1: 2010 - 2039 Three standby generators with a total generator capacity capable of operating the IPS at 143 mgd peak capacity for 48 hours. Phase 2: 2040 - 2050 Four standby generators with a total generator capacity capable of operating the IPS at 177 mgd peak capacity for 48 hours.
<b>Electrical Distribution Design and Service</b>	Design not specified but Secondary power grid is recommended	Dual grid service with designs specific to each pump station	Higher reliability with single grid service and generator capability for all pumps with fuel supply for 48 hours. Split Bus design allows for electrical bus maintenance without disconnecting power to station.
<b>Control system</b>	Redundant control required	Redundant control required	Redundant at all levels of control with additional requirement that no single source of failure will prevent pumping system from operating
<b>Hydraulic Capacity- Firm</b>	Defined as largest raw sewage pump (RSP) out of service	The King County policy provides firm capacity for the 5-year peak	BW IPS will provide firm pumping capacity for the 20-year peak hourly flows
<b>Hydraulic Capacity- Peak</b>	All RSP operating based on recommendation that peak design flow be based on a 20-year forecast or greater.	The King County policy provides peak capacity for the 20-year peak using a 50-year forecast.	Peak Design exceeds 20-year storm flow for all project phases required under the King County policy.  Phase 1: 2010 – ~2014 Required: 93 mgd Provided: 95 mgd  Phase 1: ~2015 - 2039 Required: 130 mgd Provided: 177 mgd  Phase 2: 2040 - 2050 Required: 175 mgd Provided: 177 mgd
<b>Number of Pumps</b>	Provide peak design flow with largest pump out of order	Three minimum (includes 1 standby)	Phase 1: 2010 - ~ 2014 Four duty pump systems, two smaller pump systems with dual 700 hp motors and two larger pump systems with dual 1,500 hp motors. Phase 1: ~2015 – 2039 Four duty pump systems, two smaller pump systems with dual 700 hp motors and two larger pump systems with dual 1,500 hp motors. One redundant dual 1,500 hp motor pump system installed. Phase 2: 2040- 2050 Five duty pump systems, two smaller pump systems with dual 700 hp motors and three larger pump systems with 1,500 hp motors. One redundant dual 1,500 hp motor pump system installed.

## Attachment 2

### General Overflow Response Procedures referencing the WTD Overflow Manual



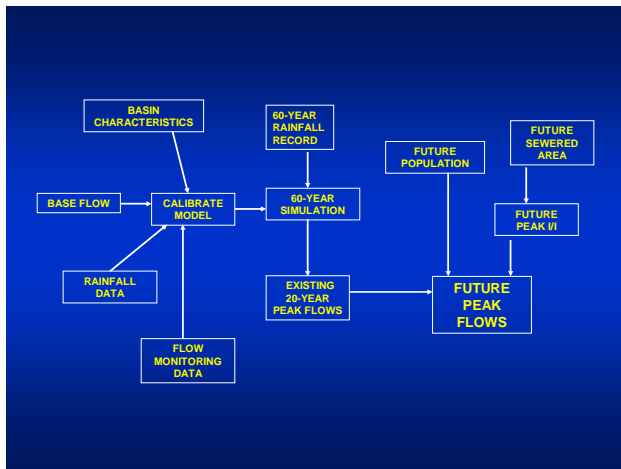
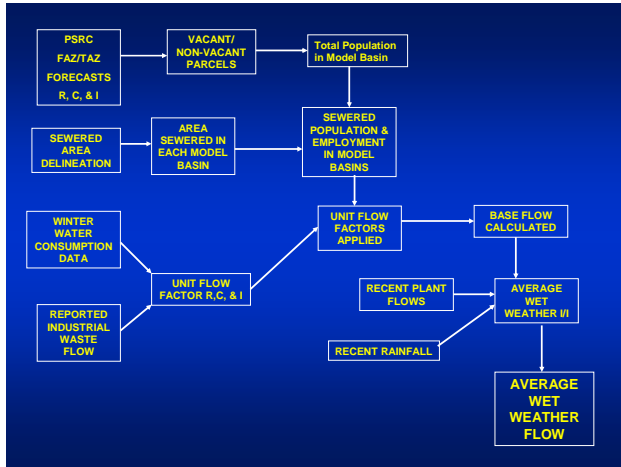
### Kenmore Notified

#### “Four Step” Basic Communication Response Plan

1. Assess the situation with the incident commander.
2. Public outreach and media relations together should develop a communication plan based on the risk to public safety. Minimum elements might include the following:
  - Contact Executive
  - Contact affected Councilmember
  - Issue press release (coordinate with Health Dept and Parks Media relations, as necessary)
  - Contact key community activist or directly affected citizens, if appropriate
3. Assist with internal notification, if needed.
4. Go to the field, if needed.

### Attachment 3

General population forecasting and flow projection methodology and identification of facility improvements



### Population and Flow Projection Methodology

- Updated PSRC Population Forecasts Utilized
- Water Consumption Information Assessed
- Historical Flows Documented
- New Sewered Area Delineations Obtained
- New Assumptions for Water Conservation and Sewered Area Considered
- Revised AWWF Projections Developed
- Revised Peak Flow Projections Developed
- Revised Assessment of Treatment Plant Capacities Developed
- Revised Assessment of Conveyance Capacities Developed